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10 **UNITED STATES DISTRICT COURT**  
11 **DISTRICT OF NEVADA**

12 UNITED STATES OF AMERICA, For the Use  
and Benefit of SOURCE HELICOPTERS,  
13 DIVISION OF ROGERS HELICOPTERS,  
14 INC., a California corporation,

15 Plaintiff,

16 vs.

17 SAYERS CONSTRUCTION, LLC, a Texas  
18 limited liability company PHILADELPHIA  
INDEMNITY INSURANCE COMPANY, a  
19 PENNSYLVANIA corporation; and DOES I-V  
20 and ROE CORPORATIONS I-V,

21 Defendants.

Case No. **2:19-CV-01602-JCM-EJY**

**STIPULATION AND ORDER**  
**TO**  
**EXTEND DEADLINES OF THE**  
***STIPULATED DISCOVERY PLAN***  
***and SCHEDULING ORDER***  
**(Fifth Request)**

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23 Use-Plaintiff, Source Helicopters, Division of Rogers Helicopters, Inc. ("Plaintiff" or  
24 "Rogers"), and Defendants, Sayers Construction, LLC ("Sayers") and Philadelphia Indemnity  
25 Insurance Company ("PIIC") by and through their attorneys, hereby stipulate and request that the  
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1 court extend certain dates as contained in the *Stipulation and Order to Extend Deadlines of the*  
2 *Stipulated Discovery Plan and Scheduling Order (Fourth Request)* filed on December 10, 2020  
3 (doc. 58) ("Fourth Extension of Discovery Plan").<sup>1</sup> In support of this stipulation and request, the  
4 following is provided, pursuant to LR IA 6-1 and LR 26-4.  
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7 **A. Statement specifying the discovery completed. (LR 26-4(a))**

8 1. Use-Plaintiff's Initial Disclosures, Pursuant to Fed.R.Civ.Pro. 26(a)(1) dated  
9 November 6, 2019.

10 2. Initial Disclosures of Philadelphia Indemnity Insurance Company Pursuant to  
11 Fed.R.Civ.Pro. 26(f) dated November 18, 2019.

12 3. Sayers Construction, LLC's Initial Disclosures dated December 12, 2019.

13 4. Philadelphia Indemnity Insurance Company's Responses to Use-Plaintiff's First  
14 Set of Requests for Production to Defendant, Philadelphia Indemnity Insurance Company dated  
15 December 30, 2019  
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17 5. Defendant and Counterclaim-Plaintiff Sayers Construction, LLC's Objections and  
18 Response to Use-Plaintiff's First Set of Requests for Production dated January 10, 2020.  
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20 6. Use-Plaintiff's Responses to Philadelphia Insurance Company's First Set of  
21 Requests for Production of Documents to Plaintiff dated January 30, 2020.  
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25 <sup>1</sup> The Third Extension of Discovery Plan filed October 29, 2020 (doc. 50) extended dates referenced in the Second  
26 Extension of Discovery Plan filed June 10, 2020 (doc. 47) which itself extended dates/deadlines referenced in the First  
27 Extension of Discovery Plan filed March 13, 2020 (doc. 42) which extended dates/deadlines referenced in the initial  
28 *Stipulated Discovery Plan and Scheduling Order* filed on November 8, 2019 (doc. 14) ("Discovery Plan").

1           7.     Use-Plaintiff's First Supplement to Initial Disclosures, Pursuant to Fed.R.Civ.Pro.  
2 26(a)(1) dated January 30, 2020.

3           8.     Philadelphia Indemnity Insurance Company's First Supplemental Disclosure  
4 Pursuant to Fed.R.Civ.Pro.. 26(f) dated February 14, 2020.

5           9.     Use-Plaintiff's Second Supplement to Initial Disclosures, Pursuant to  
6 Fed.R.Civ.Pro. 26(a)(1) dated July 20, 2020.

7           10.    Use-Plaintiff's Third Supplement to Initial Disclosures, Pursuant to Fed.R.Civ.Pro.  
8 26(a)(1) dated July 21, 2020.

9           11.    Defendant and Counterclaim-Plaintiff Sayers Construction, LLC's Objections and  
10 Responses to Defendant Philadelphia Indemnity Company's First Set of Interrogatories dated  
11 November 4, 2020.

12           12.    Defendant and Counterclaim-Plaintiff Sayers Construction, LLC's Objections and  
13 Responses to Defendant Philadelphia Indemnity Company's First Set of Requests for Production  
14 dated November 4, 2020.

15           13.    Use-Plaintiff's Responses to Philadelphia Insurance Company's First Set of  
16 Interrogatories dated December 2, 2020.

17           14.    Use-Plaintiff's Responses to Sayers Construction, LLC's First Set of  
18 Interrogatories dated December 2, 2020.

19           15.    Use-Plaintiff's Responses to Philadelphia Insurance Company's Second Set of  
20 Requests for Production of Documents dated December 3, 2020.

1           16.    Use-Plaintiff's Responses to Sayers Construction, LLC's First Set of Requests for  
2 Production dated December 3, 2020.

3           17.    Use-Plaintiff's Fourth Supplement to Initial Disclosures, Pursuant to  
4 Fed.R.Civ.Pro. 26(a)(1) dated December 3, 2020.

5           18.    Deposition of Alex Prawitz taken on December 3, 2020.

6           19.    Deposition of Sayers' Rule 30(b)(6) witness taken December 14, 2020 (part 1).

7           20.    Deposition of Sayers' Rule 30(b)(6) witness taken December 16, 2020 (part 2).

8           21.    Deposition of Jack Ryan taken on January 25, 2021.

9           22.    Deposition of Lou Woodward taken on January 27, 2021.

10          23.    Deposition of Dwayne Moquett taken on January 28, 2021.

11          24.    Deposition of Robin Rogers taken on February 3, 2021.

12          25.    Deposition of Mark Sayers (individual) taken on December 16, 2020 (part 1) and  
13 February 8, 2021 (part 2).

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18 **B.    Specific description of the discovery that remains to be completed. (LR 26-4(b))**

19           Depositions remain to be completed.

20           Continuing with the efforts referenced in the Fourth Extension of Discovery Plan, the  
21 parties have exchanged numerous emails and participated in phone conferences regarding  
22 deposition coordination and scheduling. The parties have worked diligently to complete  
23 depositions within the time frame set by the Fourth Extension of Discovery Plan. Recent  
24 developments, however, have caused those efforts to be delayed.

1 Specifically, Maeghan Whitehead, Esq., counsel for Sayers, advised on February 8, 2021,  
2 that her administrative assistant tested positive for COVID-19 – the positive test result was  
3 received while the two were standing within a few feet of each other. As a consequence, Sayers’  
4 attorney was forced to quarantine pursuant to CDC guidelines. Additionally, Sayers’ counsel was  
5 impacted by unprecedented weather conditions and power outages the week of February 15-19,  
6 2021.

8 In light of these issues, the parties have been forced to continue the depositions of Rogers’  
9 30(b)(6) witnesses (Robin Rogers & Donna Nisbett) set for February 10, 2021, as well as  
10 rescheduling the depositions of Mark Sayers, as an expert witness, as well as the deposition of  
11 Rogers’ expert witness, Ted Scott.<sup>2</sup> The parties have agreed to reschedule these depositions.

13 The parties, having discussed the matter, have mutually agreed to an extension of the close  
14 of discovery for the purposes of depositions only from the current deadline of Friday, February 12,  
15 2021, to and including Friday April 23, 2021. As to written and all other discovery, the current  
16 November 9, 2020, close of discovery shall continue to control.

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19 **C. Reasons why the deadline was not satisfied or the remaining discovery was not**  
20 **completed within the time limits set by the discovery plan. (LR 26-4(c))**

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25 <sup>2</sup> It is also noted that Rogers and Sayers met and conferred on March 2, 2021, to discuss Rogers’ desire to take the  
26 depositions of the following employees or former employees of Sayers: 1) J Cagle; 2) Roger Philips; 3) Jennifer  
27 Sayers; 4) R. Schmidt; 5) Marcus Willoughby; and 6) S. Wallen. The parties, however, were not able to reach an  
28 agreement and so Rogers will be filing a motion regarding the same.

1 As to the issue of depositions, it is submitted the reason why same cannot be completed by  
2 the current February 12, 2021, deadline is primarily due to the COVID-19 and emergency weather-  
3 related issues immediately addressed above.

4 While the parties have been and continue to cooperate in their efforts at calendaring and  
5 scheduling of depositions, the parties submit good cause is present for their request for an extension  
6 of the close of discovery for the purposes of completing depositions only from the current deadline  
7 of Friday, February 12, 2021, to and including Friday, April 23, 2021. As to written and all other  
8 discovery, the current November 9, 2020, close of discovery shall continue to control.

11 **D. Proposed schedule for completing all remaining discovery. (LR 26-4(d))**

12 1. The current discovery cut-off of **Monday, November 9, 2020**, shall continue to control as  
13 to written and all other discovery, **except for depositions.**

14 As to depositions, the current discovery cut-off shall be extended from Friday, February  
15 12, 2021, to and including **Friday, April 23, 2021.**

16 2. The current March 15, 2021, deadline for filing dispositive motions shall be extended to  
17 no later than thirty (30) days after the above-referenced extended April 23, 2021, discovery cut-  
18 off date for depositions only, i.e., **Monday, May 24, 2021.**<sup>3</sup>

19 3. The current April 14, 2021, date for filing the joint pretrial order shall be extended to not  
20 later than thirty (30) days after the above-referenced extended May 24, 2021, date set for filing  
21 dispositive motions, i.e., **Wednesday, June 23, 2021.** Pursuant to L.R. 26-1(b)(5), in the event  
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26 <sup>3</sup> The actual 30<sup>th</sup> day falls on Sunday, May 23, 2021.

1 dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until  
2 thirty (30) days after decision of the dispositive motions or further order of the court.

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4. All other deadlines contained in the Second Extension of Discovery Plan (doc. 47) not otherwise addressed above shall remain in full force and effect.

Respectfully submitted:

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**Dated: 3-4-2021**

**IT IS SO ORDERED.**

  
**U.S. MAGISTRATE JUDGE**

**Dated: March 4, 2021**

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